

year break in service as a service computation period in which less than 500 hours of service is performed. On February 1, 2002, John has an accrued benefit of \$18 per month beginning at age 65 based on credit for 1,200 hours of service in the service computation period that began July 1, 2000. However, John has credit for only 492 hours of service in the service computation period that began July 1, 2001. On February 1, 2002, John terminates his employment. On December 31, 2002 (the snapshot date for the 2003 premium), John has incurred a one-year break in service, and thus is not counted as a participant for purposes of computing the plan's 2003 premium.

*Example 3.* On January 1, 2004, the plan is amended to provide that if a vested participant whose accrued benefit has a present value of \$5,000 or less leaves employment, the benefit will be immediately cashed out. On December 30, 2005, Jane, who has a vested benefit with a present value of less than \$5,000, leaves employment. Because of reasonable administrative delay in determining the amount of the benefit to be paid, the plan does not pay Jane the value of her benefit until January 9, 2006. Under the provisions of this section, Jane is treated as not having an accrued benefit on December 31, 2005 (the snapshot date for the 2006 premium), because Jane's benefit is treated as having been paid on December 30, 2005. Thus, Jane is not counted as a participant for purposes of computing the plan's 2006 premium.

*Example 4.* If the plan amendment had instead provided for cashouts as of the first of the month following termination of employment, and the plan paid Jane the value of her benefit on January 1, 2006, Jane would be treated under the provisions of this section as having an accrued benefit on December 31, 2005, and would thus be counted as a participant for purposes of computing the plan's 2006 premium.

[65 FR 75163, Dec. 1, 2000]

## PART 4007—PAYMENT OF PREMIUMS

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### APPENDIX TO PART 4007—POLICY GUIDELINES ON PREMIUM PENALTIES

AUTHORITY: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

SOURCE: 61 FR 34020, July 1, 1996, unless otherwise noted.

#### § 4007.1 Purpose and scope.

This part, which applies to all plans that are covered by title IV of ERISA, provides procedures for paying the premiums imposed by sections 4006 and 4007 of ERISA. (See part 4006 of this chapter for premium rates and computational rules.)

#### § 4007.2 Definitions.

(a) The following terms are defined in § 4001.2 of this chapter: Code, contributing sponsor, ERISA, insurer, IRS, multiemployer plan, notice of intent to terminate, PBGC, plan, plan administrator, plan year, and single-employer plan.

(b) For purposes of this part, the following terms are defined in § 4006.2 of this chapter: new plan, newly covered plan, participant, premium payment year, and short plan year.

#### § 4007.3 Filing requirement; method of filing.

The estimation, declaration, reconciliation, and payment of premiums shall be made in accordance with the premium instructions on the PBGC's Web site (<http://www.pbgc.gov>). The plan administrator of each covered plan is responsible for filing prescribed premium information and payments. No later than the applicable due date(s) specified in § 4007.11, a plan's required premium payment(s) and related information, certified as provided in the premium instructions, must be filed in the manner and format prescribed in the instructions. Information must be filed electronically except to the extent that the PBGC grants an exemption for good cause in appropriate circumstances. The requirement to file electronically applies to filings for plan years beginning in 2006 that are made on or after July 1, 2006, for plans with 500 or more participants for the prior plan year and to filings for all plans for plan years beginning after 2006. (The requirement to file electronically does not apply to information

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filed to comply with a PBGC request under (4007.10(c) (dealing with providing record information in connection with a premium compliance review).)

[71 FR 31081, June 1, 2006]

### § 4007.4 Where to file.

See § 4000.4 of this chapter for information on where to file.

[71 FR 31081, June 1, 2006]

### § 4007.6 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part. However, for purposes of determining the amount of a late payment interest charge under § 4007.7 or of a late payment penalty charge under § 4007.8, the rule in § 4000.43(a) of this chapter governing periods ending on weekends or Federal holidays does not apply.

[68 FR 61352, Oct. 28, 2003]

### § 4007.7 Late payment interest charges.

(a) If any premium payment due under this part is not paid by the due date prescribed for such payment by § 4007.11, an interest charge will accrue on the unpaid amount at the rate imposed under section 6601(a) of the Code for the period from the date payment is due to the date payment is made. Late payment interest charges are compounded daily.

(b) When PBGC issues a bill for premium payments necessary to reconcile the premiums paid with the actual premium due, interest will be accrued on the unpaid premium until the date of the bill if paid no later than 30 days after the date of such bill. If the bill is not paid within the 30-day period following the date of such bill, interest will continue to accrue throughout such 30-day period and thereafter, until the date paid.

(c) PBGC bills for interest assessed under this section will be deemed paid when due if paid no later than 30 days after the date of such bills. Otherwise, interest will accrue in accordance with paragraph (a) of this section on the amount of the bill from the date of the bill until the date of payment.

### § 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The amount determined under this paragraph (a) will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of \$25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph (a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (*e.g.*, a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month (for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waivers.* PBGC will waive all or part of a late payment penalty charge if PBGC determines that there is reasonable cause for the late payment. Policy guidelines for applying the "reasonable cause" standard are in §§ 22 through 25 of the Appendix to this part.

(d) *Other waivers.* PBGC may waive all or part of a late payment penalty charge in other circumstances without regard to whether there is reasonable